

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTSC.A. NO. 04-10368 ~~MBB~~ MBBBLACKSMITH INVESTMENTS, LLC,
Plaintiff

v.

OCEAN STEEL & CONSTRUCTION,
LTD. and YORK STEEL, INC.
DefendantsJOINT MOTION TO CONTINUE
TRIAL DATE IN ORDER TO
PARTICIPATE IN MEDIATION

The parties in the above captioned case move for a continuance of the trial date currently set on for October 17, 2005 in this matter so that the parties can engage in mediation before Attorney Jerrold A. Olanoff in October. This motion is made on the following grounds:

1. Defendant York Steel Inc. was the steel fabrication and steel erection subcontractor on the Harvard Graduate Housing project in which York Steel subcontracted steel erection to Boston Steel Erectors, Inc. Plaintiff Blacksmith Investments LLC paid the bank debt of Boston Steel Erectors, Inc. and, pursuant to an assignment of accounts receivable, has brought this suit seeking to collect amounts allegedly owed to Boston Steel Erectors, Inc.

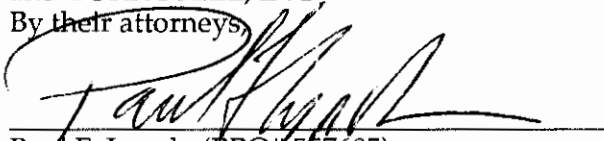
2. Blacksmith Investments has also brought a suit in Suffolk Superior Court against Ocean Steel & Construction and against Strescon Ltd. in which Blacksmith seeks (pursuant to the assignment of accounts receivable) to collect amounts allegedly owed to Boston Steel Erectors, Inc. or to Boston Steel & Precast Erectors, Inc. related to the following projects: (1) 8 Sydney Street, (2) Shaws Supermarket, (3) Massachusetts General Hospital, (4) City Square, and the (5) Jaharis Center (Blacksmith Investments, LLC v Ocean Steel et al., Suffolk Superior Court C.A.No. 2003-5718). On the projects which are the subject of the Suffolk Superior Court suit, either Ocean Steel or Strescon Ltd. was the steel fabrication and erection subcontractor and in turn subcontracted the steel erection portion of the subcontract to either Boston Steel Erectors, Inc. or to Boston Steel & Precast Erectors, Inc. The three defendants in these two lawsuits (Ocean Steel, York Steel and Strescon) are related entities and the Federal and State court lawsuits involve common issues of law and fact especially as concerns certain defenses.

3. This suit and the Suffolk Superior Court suit involve six different construction projects and hundreds of thousands of documents making discovery and trial preparation difficult and extremely time consuming. The Suffolk Superior Court case is scheduled for trial on November 28, 2005. After the Suffolk Superior Court scheduled a mediation screening conference for August 18, the parties agreed to participate in mediation in an effort to resolve the state court dispute. The parties have agreed to use Jerrold A. Olanoff, Esq. as mediator in the state court action. Mr. Olanoff has significant experience in this area and his resume is attached as Exhibit A.

4. After substantial deliberation, the parties have agreed to attempt to mediate the Federal Court action and the Suffolk Superior Court actions at the same time if the Federal Court suit can be continued. Mr. Olanoff has agreed to mediate both cases at the same time and the parties plan to conduct the mediation at a mutually agreeable date during the first two weeks of October. Mr. Olanoff has stated he is available during this time frame. One of the goals of the mediation is to avoid (i) expenses involved in completing discovery in both the State and Federal Court lawsuits and (ii) the expense of trial preparation. The parties believe that there is a higher likelihood of settlement if the funds that would have to be spent completing discovery and preparing for trial can be devoted to settlement. Given the October trial date in this action, the parties are concerned that this goal will be frustrated unless this action can be continued. A continuance will allow both sides to devote the significant expense that will be incurred completing discovery and preparing these complex cases for trial to a possible settlement of these two lawsuits.

Therefore, because the parties would like to mediate this matter together with the pending lawsuit in Suffolk Superior Court in October 2005, the parties request a continuance of this action until the first date convenient to the Court on or after December 12, 2005. This will allow the parties to participate in mediation in and if mediation is unsuccessful, conclude discovery and prepare for trial of this matter.

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and YORK STEEL, INC.
By their attorneys,



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